THE HON'BLE MS JUSTICE G. ROHINI

WRIT PETITION NO.20474 of 2004

Dated 21-11-2005

Between:

The Krishna District Fair Price Shop Dealers

Welfare Association, and another. ….Petitioners

and

The Commissioner of Civil Supplies, Hyd,

and four others.

….Respondents

THE HON'BLE MS JUSTICE G. ROHINI

WRIT PETITION NO.20474 of 2004

ORDER:

This writ petition is filed seeking to declare the alleged inaction on the part of the respondents 1 to 4 in issuing orders for allotment of kerosene oil to the fair price shops-in-question by considering and disposing of their representations dated 31-07-2004, 05-08-2004, 04-09-2004 and 08-09-2004 as arbitrary and illegal.

The first petitioner claims to be the registered association of Krishna District Fair Price Shop Dealers. The second petitioner is the General Secretary to the said association. Their grievance is that though as per the policy decision taken by the Government vide Memo dated 26-04-1994, there should not be any appointment of new hawkers or retailers for sale of kerosene and new cards should be attached only to the fair price shops located in the same village/ward/vicinity of the card holders keeping in view the viability of the fair price shop and distance to be covered by the card holders, the officials failed to implement the same. It is alleged that though the petitioner-association made a number representations viz.,. on 31-07-2004, 05-08-2004, 04-09-2004 and 08-09-2004, the first respondent, who is the competent authority failed to pass any orders for implementation of the Government policy. Hence this writ petition.

On behalf of the respondents 1 to 4, the Joint Collector, Krishna, filed a counter-affidavit stating that having considered the representations made by the hawkers' association, the District Administration has been allotting kerosene oil as per the availability and feasibility to avoid inconvenience to the cardholders. It is also stated that the District Administration has never encouraged the hawker system in allotting kerosene and that the licences of the hawkers are being cancelled from time to time.

It is also relevant to note that the Vijayawada Kerosene Retail Dealers' Welfare Association, who got itself impleaded as the fifth

respondent, filed a separate counter-affidavit contending that in view of the order dated 18-03-1996 passed by this Court in W.P.No.9203 of 1995, which has become final, the rights of the hawkers cannot be disturbed and they are also entitled for allotment of kerosene on par with the fair price shop dealers.

Since admittedly, the representations made by the first petitioner-association are still pending before the Commissioner of Civil Supplies-first respondent and particularly keeping in view the fact that the matter involves several disputed questions of fact, which can be adjudicated only by the Commissioner in the light of the policy decision taken by the Government as well as the procedure being followed in the other Districts, I am not inclined to express any opinion with regard to the rival claims made by both the parties. Instead I deem it appropriate to dispose of the writ petition with a direction to the first respondent to consider the representations made by the first petitioner-association and to pass appropriate orders in accordance with law as expeditiously as possible preferably within a period of three months from the date of receipt of a copy of this order. It is needless to mention that the first respondent shall hear the petitioner-association as well as the fifth respondent-association before passing the appropriate orders in the light of the observations made by this Court in the order dated 18-03-1996 in W.P.No.9203 of 2005 as well as the relevant orders/circulars issued by the Government from time to time in this regard.

With the above directions, the writ petition is disposed of. No costs.

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(G. ROHINI, J)

Date:21-11-2005

Issue cc in one week.

B/o

ghn